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OFFICE OF PETITIONS

In re Application of

Moore

Application No. 10/642,309

Filed: August 18, 2003

Attorney Docket No. 56162.000416

ON PETITION

This is a decision in response to the paper filed August 18, 2004, which is being treated as a petition under 37 CFR 1.182 requesting entry of Figures 9 and 10 submitted on August 18, 2004.

The petition is **dismissed**.

On August 18, 2003, the instant application was filed without Figures 9 and 10. A Notice was mailed on June 18, 2004. It stated that a filing date of August 18, 2003, had been accorded, that Figures 9 and 10 were missing, and it gave petitioner three options:

- (1) File a petition, petition fee, and evidence establishing that the missing Figures were filed as part of the application submitted to the PTO.
- (2) File a petition, petition fee, the drawings, and request a filing date as of the date that the petition and missing Figure(s) are submitted.
- (3) Accept the application as deposited.

Petitioner apparently has chosen option (3).

The petition does not state that the drawing submitted on August 18, 2004, was present at the time the original application was submitted. Petitioner does not request a filing date of August 18, 2004 (the date the drawing with Figures 9 and 10 was supplied). Instead, petitioner simply seeks to amend the application to include Figures 9 and 10 of the drawings. However, no petition is necessary for that purpose. New drawings may be entered by an examiner without petition so long as the new drawings contain no new matter. See MPEP 608.02(a). Accordingly, the petition is inappropriate and is subject to dismissal.

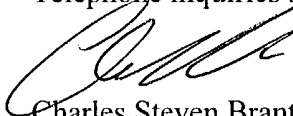
The drawing filed with the petition are withdrawn and will not be entered or used during the prosecution of this application. However, petitioner may resubmit the drawing as part of a preliminary amendment and such an amendment will be considered by the examiner for entry of new matter not described in the application as filed.

The original application papers will include only those application papers present on the date of deposit.

Since the present petition was not necessitated by any error on the part of the Office, the \$130.00 petition fee will not be refunded.

The Office of Initial Patent Examination will be informed of the instant decision and will further process the application with a filing date of August 18, 2003, using only the application papers filed on August 18, 2003.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.



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